

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

CSX TRANSPORTATION, INC.,
individually and on behalf of NORFOLK
& PORTSMOUTH BELT LINE
RAILROAD COMPANY,

Plaintiff,

v.

Civil Action No. 2:18-cv-530-MSD-LRL

NORFOLK SOUTHERN RAILWAY
COMPANY, *et al.*,

Defendants.

_____ /

**CSX TRANSPORTATION, INC.'S NOTICE OF WITHDRAWAL
OF MOTION TO COMPEL RESPONSIVE DOCUMENTS**

NOW COMES Plaintiff CSX Transportation, Inc. ("CSXT"), by counsel, and hereby withdraws its Motion to Compel Responsive Documents and Memorandum in Support thereof, filed February 17, 2020. ECF Nos. 133, 134. In its Motion, CSXT sought an Order compelling Defendant Norfolk Southern Railway Company ("NS") to produce all documents in its possession, custody, and control responsive to Request for Production No. 26 of CSXT's First Request for Production of Documents. Specifically, CSXT sought waybill information dating from at least 2009 through 2014. *See* ECF No. 134, at 5.

On February 25, 2020, NS finally complied with its discovery obligations as to this request, by producing responsive waybill information for the years 2009 through 2014. *See* Letter from M. Lacy to counsel, Feb. 25, 2020, attached hereto as **Exhibit A**. Notably, NS produced this information after the close of business that day and – as February 25, 2020 was the deadline for CSXT's expert report – NS's late production prevented CSXT's expert from fully incorporating

this data into his report. *See* Op. and Order, ECF 118. Nevertheless, as NS has now cured the deficiency in its prior responses, CSXT no longer requires the Court's assistance in compelling NS to comply with its obligations.

WHEREFORE, CSXT respectfully withdraws its Motion to Compel Responsive Documents and Memorandum in Support thereof, without prejudice to its right to seek to compel disclosure of information responsive to its discovery requests in the future.

Dated: March 2, 2020

Respectfully submitted,

CSX TRANSPORTATION, INC.

By Counsel

/s/ Robert W. McFarland

Robert W. McFarland (VSB No. 24021)
Benjamin L. Hatch (VSB No. 70116)
Jeanne E. Noonan (VSB No. 87863)
V. Kathleen Dougherty (VSB No. 77294)
MCGUIREWOODS LLP
World Trade Center
101 West Main Street, Suite 9000
Norfolk, Virginia 23510-1655
Telephone: (757) 640-3716
Facsimile: (757) 640-3930
E-mail: rmcfarland@mcguirewoods.com
E-mail: bhatch@mcguirewoods.com
E-mail: jnoonan@mcguirewoods.com
E-mail: vkdougherty@mcguirewoods.com

J. Brent Justus (VSB No. 45525)
Ashley P. Peterson (VSB No. 87904)
MCGUIREWOODS LLP
Gateway Plaza
800 East Canal Street
Richmond, Virginia 23219-3916
Telephone: (804) 775-1000
Facsimile: (804) 698-2026
E-mail: bjustus@mcguirewoods.com
E-mail: apeterson@mcguirewoods.com

CERTIFICATE OF SERVICE

I certify that on this 2nd day of March, 2020, a true and correct copy of the foregoing was served on all counsel of record via Notice of Electronic Filing by filing with the Court's CM/ECF system.

/s/ Robert W. McFarland

Robert W. McFarland (VSB No. 24021)
Benjamin L. Hatch (VSB No. 70116)
Jeanne E. Noonan (VSB No. 87863)
V. Kathleen Dougherty (VSB No. 77294)
MCGUIREWOODS LLP
World Trade Center
101 West Main Street, Suite 9000
Norfolk, Virginia 23510-1655
Telephone: (757) 640-3716
Facsimile: (757) 640-3930
E-mail: rmcfarland@mcguirewoods.com
E-mail: bhatch@mcguirewoods.com
E-mail: jnoonan@mcguirewoods.com
E-mail: vkdougherty@mcguirewoods.com

J. Brent Justus (VSB No. 45525)
Ashley P. Peterson (VSB No. 87904)
MCGUIREWOODS LLP
Gateway Plaza
800 East Canal Street
Richmond, Virginia 23219-3916
Telephone: (804) 775-1000
Facsimile: (804) 698-2026
E-mail: bjustus@mcguirewoods.com
E-mail: apeterson@mcguirewoods.com

Counsel for CSX Transportation, Inc.